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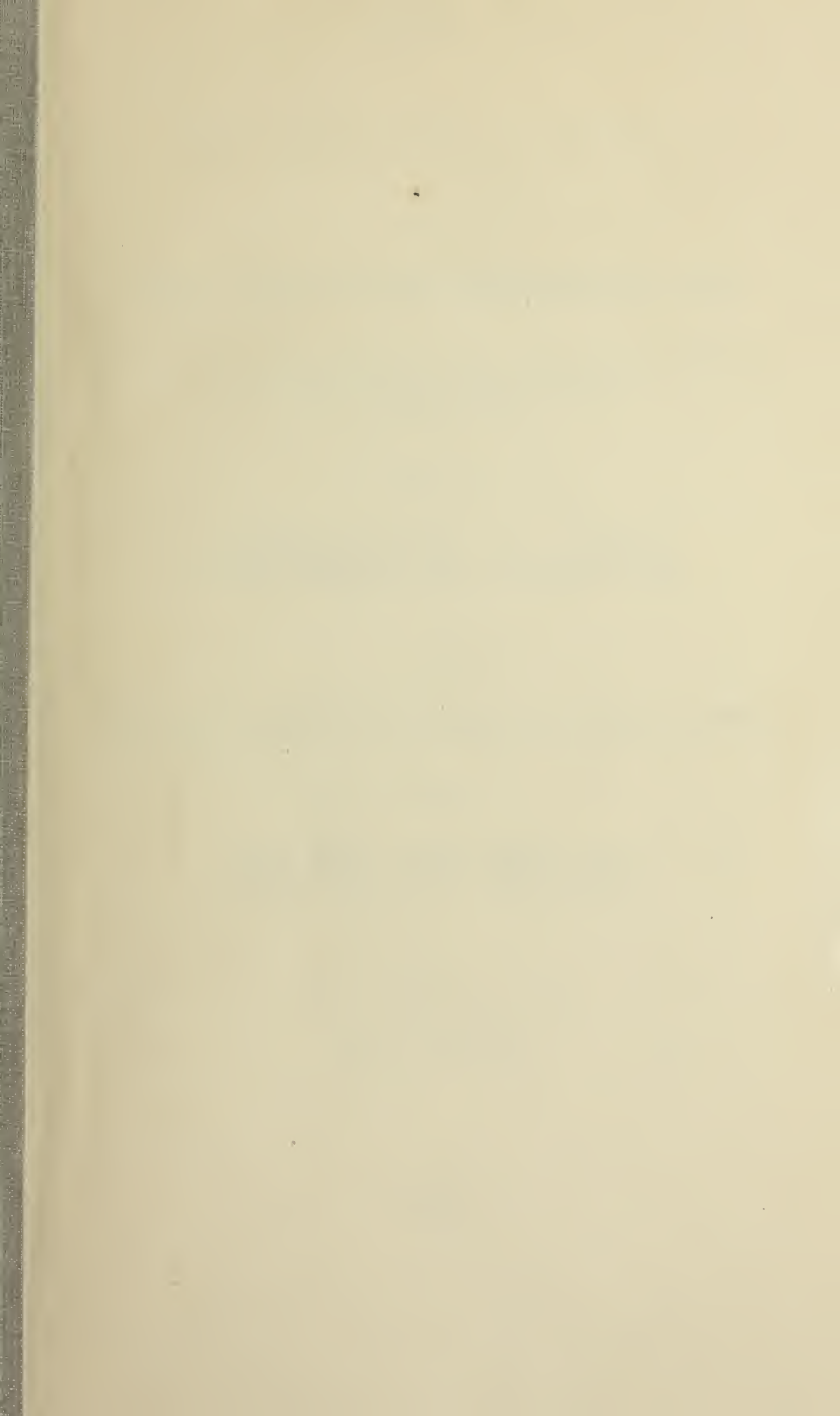
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1866

Texas-- Constitutional convention, 1866.

**The constitution as
amended, and ordinances
of the Convention of 1866...
1866.**







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THE CONSTITUTION AS AMENDED,

AND

ORDINANCES OF THE CONVENTION OF 1866,

TOGETHER WITH THE PROCLAMATION OF THE GOVERNOR DECLARING
THE RATIFICATION OF THE AMENDMENTS
TO THE CONSTITUTION

AND THE

GENERAL LAWS

OF THE

REGULAR SESSION OF THE ELEVENTH LEGISLATURE

OF THE

STATE OF TEXAS.

BY AUTHORITY.

AUSTIN
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1866

THE CONSTITUTION

OF

THE STATE OF TEXAS.

We the people of Texas, acknowledging with gratitude the Grace of God in permitting us to make choice of our form of government, do ordain and establish this Constitution.

ARTICLE 1.—BILL OF RIGHTS.

That the general, great, and essential principles of Liberty and Free Government may be recognized and established we declare that—

Section 1. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and they have at all times the unalienable right to alter, reform or abolish their form of government, in such manner as they may think expedient.

Sec. 2. All freemen, when they form a social compact, have equal rights; and no man, or set of men, is entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

Sec. 3. No religious test shall ever be required as a qualification to any office or public trust in this State.

Sec. 4. All men have a natural and indefeasable right to worship God according to the dictates of their own consciences; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent: no human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion; and no preference shall ever be

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given by law to any religious societies or mode of worship. But it shall be the duty of the Legislature to pass such laws as (may) shall be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

Sec. 5. Every citizen shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege: and no law shall ever be passed curtailing the liberty of speech or of the press.

Sec. 6. In prosecutions for the publication of papers investigating the official conduct of officers, or men, in a public capacity or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 7. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place or to seize any person or thing, shall issue, without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Sec. 8. In all criminal prosecutions, the accused shall have a speedy public trial, by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor: and no person shall be holden to answer for any criminal charge, but on indictment or information except in cases arising in the land or naval forces, or offences against the laws regulating the militia; *provided, that in criminal prosecutions, the punishment whereof shall be fine not exceeding one hundred dollars, and imprisonment not exceeding thirty days, or either, or any less punishment, the accused may be tried for the same by a jury, or otherwise as the Legislature may provide.*

Sec. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a Judge of the Supreme or District Court, upon the return of a writ of habeas corpus returnable in the county where the offence is committed, *or to such other Counties as the same may by consent of parties be made returnable.*

Sec. 10. The privileges of the writ of habeas corpus shall not

be suspended, except when in case of rebellion or invasion the public safety may require it.

Sec. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person, for injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

Sec. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb, nor shall a person be again put upon trial for the same offence after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

Sec. 13. Every citizen shall have the right to keep and bear arms, in the lawful defence of himself or the State.

Sec. 14. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made, and no person's property shall be taken or applied to public use, without adequate compensation being made, unless by the consent of such person.

Sec. 15. No person shall ever be imprisoned for debt.

Sec. 16. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Sec. 17. The military shall at all times be subordinate to the civil authority.

Sec. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 19. The citizens shall have the right in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address or remonstrance.

Sec. 20. No power of suspending laws in this State shall be exercised, except by the Legislature or its authority.

Sec. 21. To guard against transgression of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.—DIVISION OF THE POWERS OF GOVERNMENT.

Section 1. The powers of the Government of the State of Texas

shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy—to-wit: those which are legislative to one, those which are Executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of those departments, shall exercise any power, properly attached to either of the others, except in the instance herein expressly permitted.

ARTICLE III.—LEGISLATIVE DEPARTMENT.

Section 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer; provided, that the qualified electors shall be permitted to vote anywhere in the State for State officers; and provided further, that no soldier, seaman or marine, in the army or navy of the United States, shall be entitled to vote at any election created by this Constitution.

Sec. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony or breach of the peace.

Sec. 3. The Legislative powers of this State shall be vested in two distinct branches, the one to be styled the Senate, and the other the House of Representatives, and both together the "Legislature of the State of Texas." The style of all laws shall be, "Be it enacted by the Legislature of the State of Texas."

Sec. 4. The members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election, and the sessions of the Legislature shall be biennial at such times as shall be prescribed by law.

Sec. 5. No person shall be a representative unless he be a *white* citizen of the United States, *and shall be a qualified elector at the time of his election, and a resident of the State for five years next preceding his election, and the last year thereof a citizen of the county, city, town or district for which he shall be chosen.*

Sec. 6. All elections by the people shall be held at such time and places in the several counties, cities or towns as are now or may hereafter be designated by law.

Sec. 7. The Senators shall be chosen by the qualified electors for the term of four years, and shall be divided by lot into two classes as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years, so that one-half thereof shall be chosen biennially thereafter.

Sec. 8. Such mode of classifying new additional Senators shall be observed, as will as nearly as possible, preserve an equality of number in each class.

Sec. 9. When a Senatorial District shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

Sec. 10. No person shall be a Senator unless he be a *white* citizen of the United States, *and shall have been a qualified elector of this State at the time of his election, and a resident of the State five years next preceding the election*, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

Sec. 11. The House of Representatives, when assembled, shall elect a speaker and its other officers, and the Senate shall choose a President for the time being, and its other officers. Each House shall judge of the qualifications and elections of its own members; but contested elections shall be determined in such manner as shall be directed by law; two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each House may provide.

Sec. 12. Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and with the consent of two-thirds, expel a member, but not a second time for the same offence.

Sec. 13. Each House shall keep a journal of its own proceedings, and publish the same, and the yeas and nays of the members of either House on any question shall, at the desire of any three members present, be entered on the journal.

Sec. 14. When vacancies happen in either House, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies: *and should the Governor fail to issue a writ of election to fill such vacancies, the returning officer*

for the district or county shall be authorized to order an election for that purpose.

Sec. 15. Senators and Representatives shall, in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the Legislature is convened.

Sec. 16. Each House may punish, by imprisonment, during the sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings, providing such imprisonment shall not, at any one time, exceed forty-eight hours.

Sec. 17. The doors of each House shall be kept open.

Sec. 18. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting, without the concurrence of both Houses.

Sec. 19. Bills may originate in either House, and be amended, altered or rejected by the other; but no bill shall have the force of a law, until on three several days it has been read in each House, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the House in which the bill shall be pending, may deem it expedient to dispense with this rule; and every bill having passed both Houses shall be signed by the Speaker and President of their respective House.

Sec. 20. All bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

Sec. 21. After a bill or resolution has been rejected by either branch of the Legislature, no bill or resolution containing the same substance, shall be passed into a law during the same session.

Sec. 22. Each member of the Legislature shall receive from the Public Treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

Sec. 23. No Senator or Representative shall, during the term for which he may be elected, be eligible to any office of profit under this State which shall have been created, or the emoluments of which may have been increased during such term; and no member of either House of the Legislature, during the term for which he is elected, *although he may resign his seat as such member, shall*

be eligible to any office or place, the appointment to which may be made in whole, or in part, by either branch of the Legislature. *Nor shall members of either House vote for a member of their own body, though he resign his seat in the same, for Senator in the Congress of the United States.* Nor shall members thereof be capable of voting for a member of their own body for any office whatever, except it be *for Speaker of the House of Representatives, and President for the time being of the Senate, who shall be elected from their respective bodies.*

Sec. 24. No Judge of any Court of law or equity, Secretary of State, Attorney General, Clerk of any Court of Record, Sheriff or Collector, or any person holding a lucrative office under the United States or this State, or any foreign government, shall be eligible to the Legislature, nor shall at the same time hold or exercise any two offices, agencies or appointments of trust or profit under this State; provided, that the officers of the militia, to which there is attached no annual salary, *the office of Notary Public, and the office of Justice of the Peace, shall not be deemed lucrative; and that one person may hold two or more county offices, if so provided by the Legislature.*

Sec. 25. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public money with which he may have been entrusted.

Sec. 26. Ministers of the gospel being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the Legislature.

Sec. 27. Elections for Senators and Representatives shall be general throughout the State, and shall be regulated by law.

Sec. 28. The Legislature shall *cause an enumeration to be made every ten years, commencing on the 6th day of February, A. D. 1875, of all the inhabitants, (including Indians taxed) of the State, designating particularly the number of qualified electors, and the age, sex and color of all others, (herein following the classification of the United States census,)* and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature and apportioned among the several counties, cities and towns according to the number of *white* population in each, and shall not be less than forty-five nor more than ninety; *provided, that there*

shall be an enumeration and an apportionment made in the year 1870, in the manner here indicated.

Sec. 29. *Until changed by law, the act of apportionment passed the 6th day of February, A. D. 1860, by the Legislature of this State, shall remain in force.*

Sec. 30. The whole number of Senators shall, at the next session after the several periods of making the enumeration, be fixed by the Legislature, and apportioned among the several districts to be established by law to the number of qualified electors, and shall never be less than nineteen nor more than thirty-three.

Sec. 31. The members of the Legislature shall, at their first session hereafter, receive from the Treasury of the State, as their compensation, eight dollars for each day they shall be in attendance, and eight dollars for each twenty-five miles in traveling to and from the seat of government. *The above rates of compensation shall remain till changed by law.*

Sec. 32. *The Legislature shall proceed as early as practicable to elect Senators to represent this State in the Senate of the United States, and also provide for the election of Representatives to the Congress of the United States.*

Sec. 33. *The City of Austin is hereby declared to be the seat of government of this State until removed by an election of the people; and the title to the tract of land surveyed by virtue of the headright certificate of Samuel Goucher, for one-third of a league which was selected and condemned to the use of the Republic of Texas under an act of the Republic of Texas, entitled "An Act for the permanent location of the seat of government," approved the 14th day of January, A. D. 1839, be and the same is hereby confirmed; any irregularity or failure to make proper parties or other defects in the proceedings had under said act to the contrary notwithstanding; provided, nevertheless, that the lawful owner of said land, his heirs, assigns or legal representatives, may at any time within one year from the adoption of this Constitution, institute proceedings and have compensation as provided by act of the Legislature of the State of Texas, entitled "An Act for quieting the title to real estate in the City of Austin," approved 18th December, 1857.*

ARTICLE IV.—JUDICIAL DEPARTMENT.

Section 1. The Judicial power of this State shall be vested in one Supreme Court, in District Courts, in County Courts, and in such Corporation Courts and other inferior Courts or tribunals

as the Legislature may from time to time ordain and establish. *The Legislature may establish Criminal Courts in the principal cities within the State, with such criminal jurisdiction, co-extensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law; and the Judge thereof may preside over the Courts of one or more cities as the Legislature may direct.*

Sec. 2. The Supreme Court shall consist of *five Justices, any three of whom shall constitute a quorum. They shall be elected by the qualified voters of the State at a general election for State or County officers, and they shall elect from their own number a presiding officer, to be styled the Chief Justice; they shall have arrived at the age of thirty-five years at the time of election; shall hold their offices for the term of ten years, and each of them shall receive an annual salary of at least four thousand five hundred dollars, which shall not be increased or diminished during his term of office.*

Sec. 3. The Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State; but in criminal cases, *below the grade of felony*, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the Legislature shall make. The Supreme Court, and the Judges thereof, shall have power to issue the writ of habeas corpus; and under such regulations as may be prescribed by law, *the said Court and the Judges thereof*, may issue the writ of mandamus, and such other writs as *may* be necessary to enforce its own jurisdiction. *The Supreme Court shall also have power, upon affidavits, or otherwise as by the Court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Supreme Court shall sit, for the transaction of business, from the first Monday of October until the last Saturday of June of every year, at the Capital, and at not more than two other places in the State.*

Sec. 4. The Supreme Court shall appoint its own clerks, *who shall give bond in such manner as is now, or may hereafter be required by law; shall hold their offices for four years; and shall be subject to removal by the said Court, for good cause, entered of record on the minutes of said Court.*

Sec. 5. The State shall be divided into convenient Judicial Districts. For each District there shall be *elected by the qualified voters thereof, at a general election for State or County officers*, a Judge who shall reside in the same; *shall hold his office for the term of eight years; shall receive an annual salary of not less than three thou-*

sand five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the Courts at one place in each County in the District, at least twice in each year, in such manner as may be prescribed by law.

Sec. 6. The District Court shall have original jurisdiction of all criminal cases; of all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; *of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; of all suits for the trial of the right of property, levied on by virtue of any writ of execution, sequestration, or attachment, when the property levied on shall be equal to, or exceed in value one hundred dollars;* and of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said Courts and the Judges thereof, shall have power to issue *writs of injunction, certiorari, and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendence and control over inferior tribunals. The District Courts shall have appellate jurisdiction in cases originating in inferior Courts, which may be final in such cases as the Legislature may prescribe; and original and appellate jurisdiction and general control over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration; for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates;* and original jurisdiction and general control over executors, administrators, guardians and minors, under such regulations as may be prescribed by law.

Sec. 7. There shall be a Clerk of the District Court for each county, who shall be elected by the qualified voters for members of the Legislature, and who shall hold his office for four years, subject to removal by information or by *indictment* of a grand jury, and conviction by a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, until a regular election can be held.

Sec. 8. In the trial of all causes in equity in the District Courts, the plaintiff or defendant shall, upon application made in open Court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

Sec. 9. All Judges of the Supreme and District Courts shall, by virtue of their offices, be conservators of the peace throughout the

State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the "State of Texas," and conclude "against the peace and dignity of the State."

Sec. 10. *In the case of a vacancy in the offices of Justice of the Supreme Court, Judges of the District Court, Attorney-General, and District Attorneys, the Governor of the State shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State or county officers, and the successor duly qualified.*

Sec. 11. The Judges of the Supreme and District Courts shall be removed by the Governor, on the address of two-thirds of each House of the Legislature, for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment; Provided, however, That the cause, or causes, for which such removal shall be required, shall be stated, at length, in such address, and entered on the journals of each House; And provided further, That the cause or causes shall be notified to the Judge so intended to be removed; and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass. And in all such cases, the vote shall be taken by yeas and nays, and entered on the journals of each House respectively.

Sec. 12. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be described by law, or where he shall have been of counsel in the case. When the Supreme Court, or any *three* of its members, shall be thus disqualified to hear and determine any case or cases, in said Court, or when no judgment can be rendered in any case or cases in said Court, by reason of the equal division of opinion of said Judges, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When a Judge of the District Court is thus disqualified, the parties may, by consent, appoint a proper person to try the said case; or, upon their failing to do so, a competent person shall be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the District Judges may exchange districts, or hold Courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of Judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled as prescribed by law.

Sec. 13. An Attorney-General shall be elected by the people, *who shall reside at the Capital of the State during his continuance in office, whose duties shall be prescribed by law, who shall hold his office for four years, and who, in addition to perquisites, shall receive an annual salary of three thousand dollars, which shall not be increased or diminished during his term of office.*

Sec. 14. *There shall be a District Attorney for each Judicial District in the State, elected by the qualified electors of the District, who shall reside in the District for which he shall be elected; shall hold his office for four years; and, together with the perquisites prescribed by law, shall receive an annual salary of one thousand dollars, which shall not be increased or diminished during his term of office.*

Sec. 15. *There shall be established in each county in the State, an inferior tribunal, styled the County Court; and there shall be elected by the persons in each county, who are qualified to vote for members of the Legislature, a Judge of the County Court, who shall be a conservator of the peace, who shall hold his office for four years, and who shall receive such compensation as may be prescribed by law, and who may be removed from office for neglect of duty, incompetency or malfeasance, in such manner as may be prescribed by law.*

Sec. 16. *The County Court shall have jurisdiction of all misdemeanors and petty offences, as the same are now, or may hereafter be defined by law; of such civil cases, where the matter in controversy shall not exceed five hundred dollars, exclusive of interest, under such regulations, limitations and restrictions as may be prescribed by law, without regard to any distinction between law and equity; to probate wills, to appoint guardians of minors, idiots, lunatics and persons non compos mentis; to grant letters testamentary and of administration; to settle the accounts of executors, administrators and guardians; to transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons non compos mentis, including the settlement, partition and distribution of such estates; and to apprentice minors under such regulations as may be prescribed by law. One term of the County Court shall be held in each county at least once in every two months; and the Legislature may provide for the appointment of a County Attorney to represent the State and county in said court, whose term of office, duties and compensation shall be such as may be prescribed by law.*

Sec. 17. *There shall be elected in each county in the State, by the*

persons qualified to vote for members of the Legislature, four County Commissioners, whose term of office shall be four years, who, with the Judge of the County Court, shall constitute; and be styled, the Police Court for the County, whose powers, duties and mode of action, in regulating, promoting and protecting the public interest relating to the county, shall be the same as that now prescribed by law, for the Commissioners Court of Roads and Revenue, until otherwise provided for and regulated by the Legislature.

Sec. 18. *There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be the Clerk of the County and Police Courts, whose duties and perquisites, and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Judge of the County Court, until the next general election for County or State officers, who may be removed from office for such cause, and in such manner, as may be prescribed by law.*

Sec. 19. *There shall be elected a convenient number of Justices of the Peace, who shall have such civil and criminal jurisdiction as shall be provided by law, where the matter in controversy, shall not exceed, in value, one hundred dollars, exclusive of interest; also, one Sheriff, one Coroner, and a sufficient number of Constables, who shall hold their offices for four years, to be elected by the qualified voters of the district, or county, as the Legislature may direct. Justices of the Peace, Sheriffs and Coroners, shall be commissioned by the Governor. The Sheriffs shall not be eligible more than eight years in every twelve.*

Sec. 20. *In all cases of law or equity, where the matter in controversy shall be valued at, or exceed twenty dollars, the right of trial by jury shall be preserved.*

ARTICLE V.—EXECUTIVE DEPARTMENT.

Section 1. The supreme executive power of this State shall be vested in the Chief Magistrate, who shall be styled the Governor of the State of Texas.

Sec. 2. The Governor shall be elected by the qualified electors of the State, at the time and places of election for members of the Legislature.

Sec. 3. The returns of every election for Governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the seat of Government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session

of the Legislature thereafter, open and publish them in the presence of both Houses of the Legislature; the person having the highest number of votes, and being constitutionally eligible, shall be declared, by the Speaker, under the direction of the Legislature, to be Governor; but if two or more persons shall have the highest, and an equal number of votes, one of them shall be immediately chosen Governor, by joint vote of both Houses of the Legislature. Contested elections for Governor shall be determined by both Houses of the Legislature.

Sec. 4. The Governor shall hold his office for the term of *four* years from the regular time of installation, and until his successor shall be duly qualified; but shall not be eligible for more than *eight* years in any term of *twelve* years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas at the time of the adoption of this Constitution, and shall have resided in the same six years immediately preceding his election, *and shall be inaugurated on the first Thursday after the organization of the Legislature, or as soon thereafter as practicable.*

Sec. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he *may* have been elected. *He shall receive an annual salary of four thousand dollars, until otherwise provided by law.*

Sec. 6. The Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 7. He may require information in writing from the officers of the Executive Department, on any subject relating to the duties of their respective offices.

Sec. 8. He may, by proclamation, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place, *if that should be dangerous by reason of disease or the public enemy.* In case of disagreement between the two Houses, with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the Legislature.

Sec. 9. He shall, from time to time, give to the Legislature information, in writing, of the state of the Government, and recommend to their consideration such measures as he may deem expedient.

Sec. 10. He shall take care that the laws be faithfully executed.

Sec. 11. In all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and, under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures. In cases of treason, he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons; and he may, in the recess of the Senate, respite the sentence until the end of the next session of the Legislature.

Sec. 12. There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor, by the same persons, and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieutenant Governor, the electors shall distinguish for whom they vote as Governor, and for whom as Lieutenant Governor. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the Senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the Governor to serve, or of his impeachment or absence from the State, the Lieutenant-Governor shall exercise the powers and authority appertaining to the office of Governor, until another be chosen at the periodical election, and be duly qualified, or until the Governor impeached, absent or disabled, shall be acquitted, return, or his disability be removed.

Sec. 13. Whenever the Government shall be administered by the Lieutenant Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as President for the time being. And if, during the vacancy of the office of Governor, the Lieutenant Governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the President of the Senate, for the time being, shall in like manner administer the government until he shall be superceded by a Governor or Lieutenant Governor. The Lieutenant Governor shall, whilst he acts as President of (the) Senate, receive for his services the same compensation which shall be allowed to the Speaker of the House of Representatives, and no more; and during the time he administers the Government as Governor, shall receive the same compensation which the Governor would have received had he been employed in the duties of his office, and no more. The President for the time being of the Senate shall, during the time he administers the government, receive in like manner the same compensation which the Governor would have received had he been employed

in the duties of his office. If the Lieutenant Governor shall be required to administer the government, and shall, whilst in such administration die, resign, or be absent from the State, during the recess of the Legislature, it shall be the duty of the Secretary of State to convene the Senate, for the purpose of choosing a President for the time being.

Sec. 14. There shall be a seal of the State, which shall be kept by the Governor and used by him officially. The said seal shall be a star of five points, encircled by an olive and live oak branches, and the words "The State of Texas."

Sec. 15. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State Seal, signed by the Governor, and attested by the Secretary of State.

Sec. 16. There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue in office during the term of service of the Governor elect. He shall keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the legislature, or either House thereof, and shall perform such other duties as may be required of him by law.

Sec. 17. Every bill which shall have passed both Houses of the Legislature, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the House in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it. If, after such consideration, two-thirds of the members present shall agree to pass the bill, it shall be sent with the objections, to the other House, by which it shall likewise be reconsidered. If approved by two-thirds of the members present of that House, it shall become a law; but in such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each House, respectively; if any bill shall not be returned by the Governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it. Every bill presented to the Governor one day previous to the adjournment of the Legislature, and not returned to the House in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the Governor. *The Governor may approve any appropriation, and dis-*

approve any other appropriation in the same bill. In such case, he shall, in signing the bill, designate the appropriations disapproved, and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in the case of other bills disapproved by the Governor; but if the Legislature has adjourned before the bill is returned to the House, he shall return the same to the Secretary of State, with his objections, and also to the next session of the Legislature.

Sec. 18. Every order, resolution, or vote, to which the concurrence of both Houses of the Legislature may be necessary, except on questions of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both Houses according to the rules and limitations prescribed in the case of a bill.

Sec. 19. The Governor, by and with the advice and consent of two-thirds of the Senate, shall appoint a convenient number of Notaries Public, not exceeding six for each county; who, in addition to such duties as are prescribed by law, shall discharge such other duties as the Legislature may from time to time prescribe.

Sec. 20. Nominations to fill all vacancies that may have occurred during the recess, shall be made to the Senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated during the session to fill the same office; and should the Governor fail to make nominations to fill any vacancy during the session of the Senate, such vacancy shall not be filled by the Governor until the next meeting of the Senate.

Sec. 21. The Governor shall reside during the session of the Legislature at the place where the session may be held, and at all other times wherever, in their opinion, the public good may require.

Sec. 22. No person holding the office of Governor shall hold any other office or commission, civil or military.

Sec. 23. *There shall be elected by the qualified electors of this State, in the manner prescribed by law, a Comptroller of Public Accounts and a State Treasurer, each of whom shall hold his office for the term of four years; and in case of a vacancy in either of said offices, the Governor shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State and county officers, and the successor duly qualified.*

ARTICLE VI.—MILITIA.

Section 1. The Legislature shall provide by law for organizing and disciplining the militia of the State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

Sec. 2. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 3. No licensed Minister of the Gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

Sec. 4. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections and to repel invasion.

ARTICLE VII.—GENERAL PROVISIONS.

Section 1. Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, (A. B.,) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear (or affirm) that, since the adoption of this Constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted, any person thus offending—so help me God."

Sec. 2. Treason against this State shall consist only in levying war against it, or in adhering to its enemies—giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open Court.

Sec. 3. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

Sec. 4. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The

privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practice.

Sec. 5. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist in any manner, those thus offending, shall be deprived of holding any office of trust or profit under this State.

Sec. 6. In all elections by the people, the vote shall be by ballot, until the Legislature shall otherwise direct; and in all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

Sec. 7. The Legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors, not provided for by this Constitution, and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation, or otherwise, any amount of money out of the Treasury of the State, to any individual on a claim, real or pretended, where the same shall not have been provided for by pre-existing law: Provided, that nothing in this section shall be so construed as to effect the claims of persons against the Republic of Texas, heretofore existing.

Sec. 8. No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made, without the concurrence of two-thirds of both Houses of the Legislature. A regular statement and account of the receipts and expenditures of all public money shall be published annually in such manner as shall be prescribed by law. And in no case shall the Legislature have the power to issue "Treasury Warrants," "Treasury Notes," or paper of any description, intended to circulate as money.

Sec. 9. All civil officers shall reside within the State; and all district or county officers, within their district or counties; and shall keep their offices at such places therein as may be required by law.

Sec. 10. The duration of all offices, not fixed by this Constitution, shall never exceed four years, *except the office of Superintendent of the Lunatic Asylum, or other Asylums that may be established by law, who shall continue in office during good behavior: provided, that in all cases, where the Governor has the authority under this Constitution, or laws made in pursuance thereof, to appoint to office, he shall also have power to remove from the same, for malfeasance in office, neglect of duty, or other good cause: provided, that a statement of the cause, shall, at the time of removal, be furnished the party interested, and a copy thereof shall also be recorded in the office of the Secretary of State.*

Sec. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this Constitution.

Sec. 12. The Legislature shall have power to provide for deductions from the salaries of public officers, who may neglect the performance of any duty that may be assigned them by law.

Sec. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

Sec. 14. The Legislature shall provide for a change of venue in civil and criminal cases, and for the erection of a Penitentiary at as early a day as practicable.

Sec. 15. It shall be the duty of the Legislature to pass such laws as may be necessary and proper, to decide differences by arbitration, when the parties shall elect that mode of trial.

Sec. 16. Within five years after the adoption of this Constitution, the laws, civil and criminal, shall be revised, digested, arranged and published, in such manner as the Legislature shall direct; and a like revision, digest and publication, shall be made every ten years thereafter.

Sec. 17. No lottery shall be authorized by this State; and the buying or selling of lottery tickets within this State is prohibited.

Sec. 18. No divorce shall be granted by the Legislature.

Sec. 19. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in rela-

tion as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

Sec. 20. The rights of property and of action, which have been acquired under the Constitution and laws of the Republic of Texas, shall not be divested; nor shall any rights or actions, which have been divested, barred, or declared null and void, by the Constitution and laws of the Republic of Texas, be reinvested, revived, or reinstated, by this Constitution; but the same shall remain precisely in the situation which they were before the adoption of this Constitution.

Sec. 21. All claims, locations, surveys, grants and titles to land, which are declared null and void by the Constitution of the Republic of Texas, are, and the same shall remain forever null and void.

Sec. 22. The Legislature shall have power to protect by law from forced sale, a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land (not included in a town or city) or any town or city lot or lots, in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted, nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the Legislature may hereafter point out.

Sec. 23. The Legislature shall provide in what cases officers shall continue to perform the duties of their offices, until their successors shall be duly qualified.

Sec. 24. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title.

Sec. 25. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be re-enacted and published at length.

Sec. 26. No person shall hold, or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace.

Sec. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both Houses of the Legislature may think proper to exempt from taxation. The Legislature shall have power to lay an income tax, and to tax all persons pursuing any occupation, trade or profession: Provided that the term occupation shall not be construed to apply to pursuits, either agricultural or mechanical.

Sec. 28. The Legislature shall have power to provide by law for *exemption* from taxation, two hundred and fifty dollars' worth of the household furniture or other property belonging to each family in this State.

Sec. 29. The Assessor and Collector of Taxes shall be appointed in such manner, and under such regulations, as the Legislature may direct.

Sec. 30. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

Sec. 31. No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both Houses of the Legislature; and two-thirds of the Legislature shall have power to revoke and repeal all private corporations, by making compensation for the franchise. And the State shall not be part owner of the stock, or property, belonging to any corporation.

Sec. 32. The Legislature shall prohibit, by law, individuals from issuing bills, checks, promissory notes, or other paper to circulate as money.

Sec. 33. The aggregate amount of debts hereafter contracted by the Legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both Houses of the Legislature.

Sec. 34. The Legislature *may, from time to time*, establish new counties for the convenience of the inhabitants of such new county or counties: Provided that no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken, to a less area than nine hundred square miles, unless by consent of two-thirds of the Legislature, nor shall any county be *organized* of less contents: *Provided, further, that all counties heretofore created are hereby declared to be legally constituted counties.* Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until *the next apportionment of representation thereafter*: *Provided, also, that no new county shall be laid off, when less than one hundred and twenty qualified jurors are at the time resident therein.*

Sec. 35. No soldier shall, in time of peace, be quartered in the house, or within the enclosure of any individual without the consent of the owner, nor in time of war, but in a manner prescribed by law.

Sec. 36. *A well regulated system of internal improvements is cal-*

culated to develop the resources of the State, and promote the happiness and prosperity of her citizens. Therefore, the Legislature shall have power, and it shall be its duty to encourage the same; and the Legislature shall have power to guarantee the bonds of railroad companies, to any amount not exceeding, in any case, the sum of fifteen thousand dollars per mile; provided that in no case shall the State guarantee the payment of the bonds of any railroad company, until such company shall have previously graded and prepared at least twenty-five miles of its roadway, ready to lay the iron rails thereon, and so on continuously, on each additional section of ten miles, so graded and prepared. after the preceding section has been finished and in operation, until the whole road shall be completed; further provided, that the Legislature shall require that the company, or companies, which receive aid from the State, shall use the same exclusively for the purchase of iron rails, fastenings and rolling stock, and placing the same upon the road, and upon the failure to do so, shall forfeit all their rights under this provision, together with their property and franchises; and it shall be declared a felony, for any officer, or agent, of any railroad company to misappropriate any funds, granted under the provisions of this section, or any other funds or property of the company. The State shall always be secured for all bonds guaranteed for any railroad company, by a first lien, or mortgage, upon the road, rolling stock, depots and franchises of the corporation, whose bonds may be guaranteed. The Legislature shall provide, by law, that the managers of the railroad companies shall make reports periodically, of their acts, and the condition of the corporation affairs, which shall be officially published for public information. And in no case shall the State guarantee the bonds of railroad companies, as herein provided, except by a vote of two-thirds of both Houses of the Legislature; provided the Legislature shall have no power, directly or indirectly, to release any railroad company from the payment in specie, of the principal of interest of the obligations or debts due to the school fund or to the State. An Act entitled "An act, supplemental and amendatory of an act, to regulate railroad companies, approved February 7th, 1853," approved 21st December, 1857, be and the same is hereby repealed, and of no further effect; and the franchise or corporate privileges of any incorporated company shall not be sold under judgments, except for the foreclosure of mortgages or liens, created in the manner prescribed by law.

The Comptroller of the State is authorized to take possession of any railroad, in default of paying any bonds which may be guaranteed by

the State, under such regulations as may be prescribed by law.

MODE OF CALLING A CONVENTION AND AMENDING THE CONSTITUTION OF THIS STATE.

Sec. 37. *The Legislature, by a vote of three-fourths of all the members of each House, with the approval of the Governor, shall have power to call a convention of the people, for the purpose of altering, amending or reforming the Constitution of this State; the manner of electing delegates to the Convention, the time and place of assembling them, to be regulated by law.*

Sec. 38. *The Legislature, at any biennial session, by a vote of two-thirds of all the members of each House, may propose amendments to the Constitution, to be voted upon by persons legally qualified to vote for members of the House of Representatives of the State; which proposed amendments shall be duly published in the public prints of this State, at least three months before the next general election for representatives to the Legislature, for the consideration of the people; and it shall be the duty of the several returning officers, at said general election, to open a poll for, and make returns to the Secretary of State, of the number of legal votes cast at said election, for and against said amendment, and if more than one be proposed, then the number of legal votes cast for and against each of them; and if it shall appear, from said returns, that a majority of the votes cast upon said proposed amendment, or amendments, have been cast in favor of the same, and two-thirds of each House of the Legislature, at the next regular session thereafter, shall ratify said proposed amendment, or amendments so voted upon by the people, the same shall be valid to all intents and purposes, as parts of the Constitution of the State of Texas; provided that the said proposed amendments shall, at each of said sessions, have been read on three several days in each House of the Legislature, and the vote thereon shall have been taken by yeas and nays; and, provided further, that the rule in the above proviso shall never be suspended by either of said Houses.*

Sec. 39. *That the State of Texas hereby releases to the owner of the soil all mines and mineral substances, that may be on the same, subject to such uniform rate of taxation, as the Legislature may impose. All islands along the Gulf coast of the State, not now patented, or appropriated by locations under valid land certificates, are reserved*

from location or appropriated (appropriation) in any other manner by private individuals than as the Legislature may direct.

ARTICLE VIII.—FREEDMEN.

Section 1. *African slavery, as it heretofore existed, having been terminated within this State, by the Government of the United States, by force of arms, and its re-establishment being prohibited, by the amendment to the Constitution of the United States, it is declared that neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in this State; and Africans and their descendants, shall be protected in their rights of person and property by appropriate legislation; they shall have the right to contract and be contracted with; to sue and be sued; to acquire, hold and transmit property; and all criminal prosecutions against them, shall be conducted in the same manner as prosecutions, for like offences, against the white race, and they shall be subject to like penalties.*

Sec. 2. *Africans and their descendants shall not be prohibited, on account of their color or race, from testifying orally, as witnesses, in any case, civil or criminal, involving the right of, injury to, or crime against any of them in person or property, under the same rules of evidence that may be applicable to the white race; the credibility of their testimony to be determined by the court or jury hearing the same; and the Legislature shall have power to authorize them to testify as witnesses in all other cases, under such regulations as may be prescribed, as to facts hereafter occurring.*

ARTICLE IX.—IMPEACHMENT.

Section 1. The power of impeachment shall be vested in the House of Representatives.

Sec. 2. Impeachment of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Comptroller, and of the Judges of the District Court, shall be tried by the Senate.

Sec. 3. Impeachments of Judges of the Supreme Court shall be tried by the Senate. When sitting as a Court of Impeachment, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the Senators present.

Sec. 4. Judgment in cases of impeachment shall extend only to

removal from office, and disqualification from holding any office of honor, trust or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial and punishment according to law.

Sec. 5. All officers against whom articles of impeachment may be proffered, shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer, until the decision on the impeachment.

Sec. 6. The Legislature shall provide for the trial, punishment and removal from office, of all other officers of the State, by indictment or otherwise.

ARTICLE X.—EDUCATION.

Section 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the Legislature of this State to make suitable provisions for the support and maintenance of public schools.

Sec. 2. The Legislature shall, as early as practicable, establish a system of free schools throughout the State; and as a basis for the endowment and support of said system, all the funds, lands and other property heretofore set apart and appropriated, or that may hereafter be set apart and appropriated for the support and maintenance of public schools, shall constitute the public school fund; and said fund, and the income derived therefrom, shall be a perpetual fund exclusively for the education of all the white scholastic inhabitants of this State, and no law shall ever be made appropriating said fund to any other use or purpose whatever. And until such time as the Legislature shall provide for the establishment of such system of public schools in the State, the fund thus created and the income derived therefrom, shall remain as a charge against the State, and be passed to the credit of the free common school fund.

Sec. 3. And all the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroad companies, or other corporations of any nature whatever, for internal improvements, or for the development of the wealth and resources of the State, shall be set apart as a part of the perpetual school fund of the State; provided, that if at any time hereafter any portion of the public domain of this State shall be sold, and by virtue of said sale the jurisdiction over said land shall be vested in the United States Govern-

ment, in such event one-half of the proceeds derived from said sale shall become a part of the perpetual school fund of the State; and the Legislature shall hereafter appropriate one-half of the proceeds resulting from all sales of the public lands to the perpetual public school fund.

Sec. 4. The Legislature shall provide, from time to time, for the sale of lands belonging to the perpetual public school fund, upon such time and terms as it may deem expedient; provided, that in cases of sale the preference shall be given to actual settlers; and, provided further, that the Legislature shall have no power to grant relief to purchasers by granting further time for payment, but shall in all cases, provide for the forfeiture of the land to the State for the benefit of a perpetual public school fund; and that all interest accruing upon such sales shall be a part of the income belonging to the school fund, and subject to appropriation annually for educational purposes.

Sec. 5. The Legislature shall have no power to appropriate or loan or invest, except as follows, any part of the principal sum of the perpetual school fund for any purpose whatever; and it shall be the duty of the Legislature to appropriate annually the income which may be derived from said fund, for educational purposes, under such system as it may adopt; and it shall, from time to time, cause the principal sum now on hand and arising from sales of land, or from any other source to be invested in the bonds of the United States of America, or the bonds of the State of Texas, or such bonds as the State may guarantee.

Sec. 6. All public lands which have been heretofore, or may be hereafter, granted for public schools, to the various counties or other political divisions in this State, shall be under the control of the Legislature, and may be sold on such terms and under such regulations as the Legislature shall by law prescribe; and the proceeds of the sale of said lands shall be added to the perpetual school fund of the State. But each county shall receive the full benefit of the interest arising from the proceeds of the sale of the lands granted to them respectively; provided, that the lands already patented to the counties, shall not be sold without the consent of such county or counties to which the lands may belong.

Sec. 7. The Legislature may provide for the levying of a tax for educational purposes; provided, the taxes levied shall be distributed from year to year, as the same may be collected; and, provided, that all the sums arising from said tax which may be collected from Africans, or persons of African descent, shall be exclusively appropriated for the maintenance of a system of public schools

for Africans and their children; and it shall be the duty of the Legislature to encourage schools among these people.

Sec. 8. *The moneys and lands heretofore granted to, or which may hereafter be granted for the endowment and support of one or more universities, shall constitute a special fund for the maintenance of said universities, and until the university or universities are located and commenced, the principal and the interest arising from the investment of the principal, shall be invested in like manner, and under the same restrictions as provided for the investment and control of the perpetual public school fund, in Sections four and five (4 and 5) in this Article of the Constitution, and the Legislature shall have no power to appropriate the university fund for any other purpose than that of the maintenance of said universities, and the Legislature shall, at an early day, make such provisions, by law, as will organize and put into operation the university.*

Sec. 9. *The four hundred thousand acres of land that have been surveyed and set apart, under the provisions of a law approved 30th August, A. D. 1856, for the benefit of a Lunatic Asylum, a Deaf and Dumb Asylum, a Blind Asylum, and an Orphan Asylum, shall constitute a fund for the support of such institutions, one-fourth part for each; and the said fund shall never be diverted to any other purpose. The said lands may be sold, and the fund invested under the same rules and regulations as provided for the lands belonging to the school fund. The income of said funds only shall be applied to the support of such institutions; and until so applied, shall be invested in the same manner as the principal.*

Sec. 10. *The Governor, by and with the advice and consent of two-thirds of the Senate, shall appoint an officer to be styled the Superintendent of Public Instruction. His term of office shall be four years, and his annual salary shall not be less than (\$2,000) two thousand dollars, payable at stated times; and the Governor, Comptroller and Superintendent of Public Education, shall constitute a Board to be styled a Board of Education, and shall have the general management and control of the perpetual school fund, and common schools, under such regulations as the Legislature may hereafter prescribe.*

Sec. 11. *The several counties in this State which have not received their quantum of the lands for the purposes of education, shall be entitled to the same quantity heretofore appropriated by the Congress of the Republic of Texas, and the State, to other counties. And the counties which have not had the lands to which they are entitled for educational purposes, located, shall have the right to*

contract for the location, surveying and procuring the patents for said lands, and of paying for the same with any portion of said lands so patented, not to exceed one-fourth of the whole amount to be so located, surveyed and patented—to be divided according to quality, allowing to each part a fair proportion of land, water and timber.

ARTICLE XI.

Sec. 1. All certificates for head-right claims to land, issued to fictitious persons, or which were forged, and all locations and surveys thereon, are, and the same were null and void from the beginning.

ARTICLE XII.—LAND OFFICE.

Sec. 1. There shall be one General Land Office in the State, which shall be at the seat of Government, where all titles which have heretofore emanated, or may hereafter emanate from Government, shall be registered; and the Legislature may establish from time to time such subordinate offices as they may deem requisite.

Done in Convention by the Deputies of the people of Texas, at the city of Austin, this second day of April, in the year of our Lord one thousand eight hundred and sixty-six. In testimony whereof we have hereunto subscribed our names.

J. W. THROCKMORTON,

President of the Convention.

D. C. DICKSON, President *pro tem.*

WM. M. TAYLOR, President *pro tem.*

Attest, LEIGH CHALMERS,

Secretary of the Convention.

R. F. Slaughter, J. H. Parsons, Edmund J. Davis, P. C. Woods, T. N. Waul, H. R. Runnels, A. H. Phillips, Isaiah O'Brien Richardson, A. W. Spaight, George C. Bengé, James E. Ranck, A. B. Norton, O. M. Roberts, J. W. Flanagan, Jack Davis, A. P. Shuford, A. M. Gentry, J. W. Whitfield, James W. Henderson, F. A. Hill, J. M. Hurt, Wells Thompson, W. C. Dalrymple, F. J. Parker, Geo. W. Jones, J. K. P. Record, Geo. W. Smith, A. Harwood, Jas. M. Lindsay, J. Lafayette Camp, Daniel Murchison, A. J. Ball, J. L. Halbert, H. W. Nelson, W. P. Beall, Benjamin R. Tyus, B. T. Selman, M. T. Johnson, R. A. Reeves, W. P. Bacon, R. H. Lane, Wm. R. Anderson, B. G. Shields, James Shaw, Amzi Bradshaw, John K. Bumpass, Hardin Hart, Orin Drake, X. B. Saunders, J. S. Porter, J. M. Young, W. B. Middleton, H. P. Mabry, Richard S. Walker, W. P. Saufley, James M. Norris, Benton Randolph, John Hancock, William E. Jones, A. Smith.

PROCLAMATION BY THE GOVERNOR,
ON THE
AMENDMENTS TO THE CONSTITUTION

Whereas, it appears by the official returns in the Office of the Secretary of State, that at the election held on the fourth Monday in June, of the present year, as provided for by the Ordinance of the Convention of Texas, passed 29th day of March, 1866: "For the Ratification of the Amendments to the Constitution," there were cast for said Amendments so submitted to the people, twenty-eight thousand one hundred and nineteen (28,119), and against said Amendments, twenty-three thousand four hundred (23,400) votes.

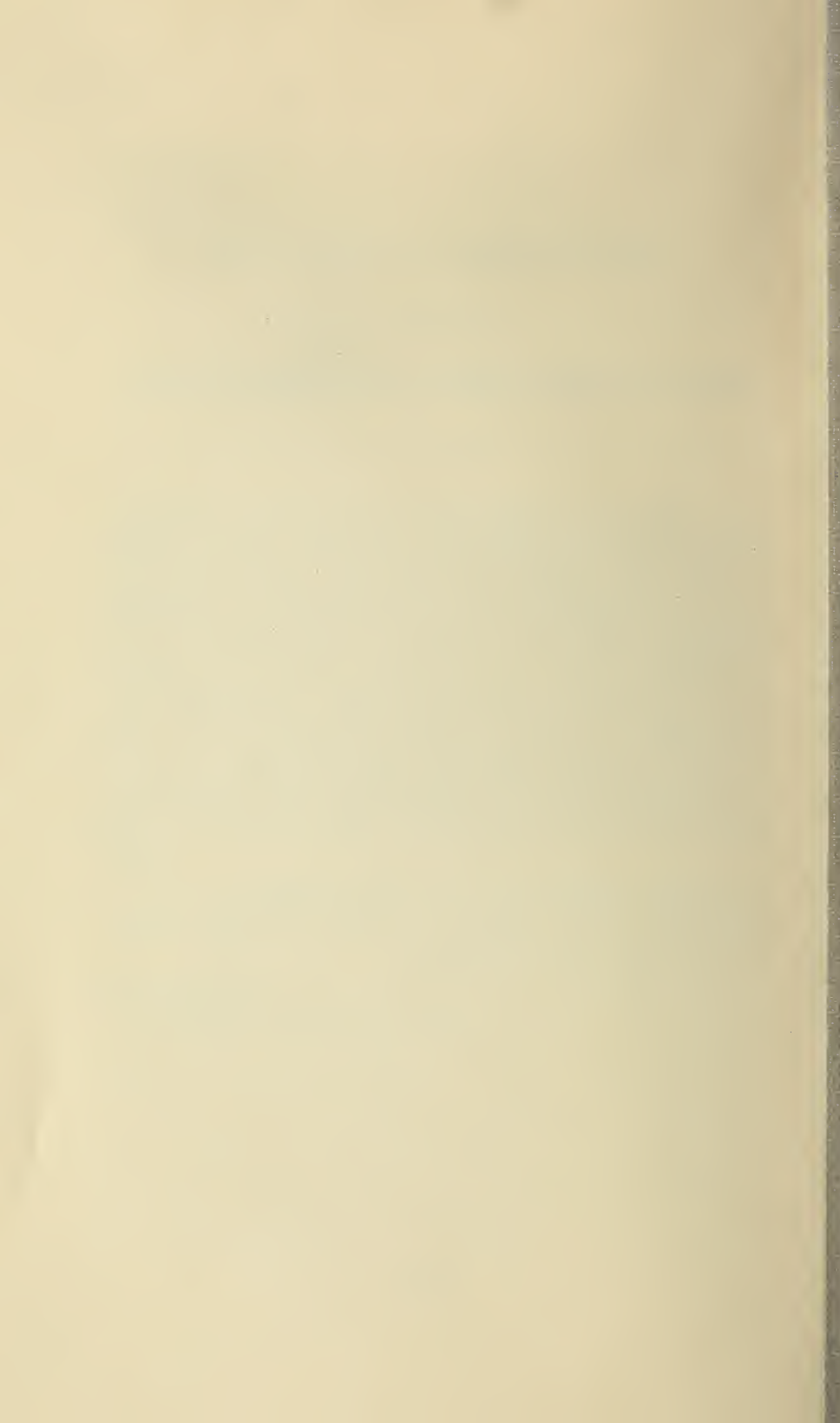
Now, Therefore, I, James W. Throckmorton, Governor of the State of Texas, in accordance with the provisions of a Joint Resolution of the Legislature of said State, approved October 5th, 1866, do by these presents make known and declare that the said proposed Amendments to the Constitution, by the vote of the people of said State, at the election aforesaid, were ratified and made a part of the same.

In Testimony Whereof, I have caused the Great Seal
[Seal] of State to be affixed, at Austin, this 8th day of October,
1866.

JAMES W. THROCKMORTON.

By the Governor:

J. A. GREEN, Secretary of State.





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